

REMARKS

Applicant again thanks the Examiner for extending the courtesy of holding a telephonic interview with Matthew J. Solow (Reg. No. 56,878), counsel for Applicant, on April 15, 2010. Applicant electronically submitted a Statement of the Substance of the Interview on May 10, 2010.

Applicant has considered the helpful suggestions made by the Examiner during the interview. Applicant has now canceled all the pending claims without prejudice and added new Claims 20-22. No new matter is added by the new claims, and support can be found in the published application at ¶¶ 0012-0016, 0021, 0061-0063 and 0069.

In the Office Action, the Examiner rejected Claims 3, 5, 9 and 11-15 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 1,857,853 to McMann (“McMann”). In response, Applicant avers that this rejection is rendered moot because Claims 3, 5, 9 and 11-15 have been cancelled. Notwithstanding, new Claims 20-22 are not anticipated by McMann because McMann does not teach that the annular contact portion of the container cover must lie against a substantially flat wall of a container, which is recited in the new claims. In fact, McMann teaches just the opposite.

More specifically, McMann requires that its annular contact portion lie against an irregularly shaped wall of a container. *See* McMann at Col. 2, lines 14-22 (“The top inner portion of the flange 22 is shaped to cooperate closely with **the undercut or shoulder** 16 of the rim and this portion is so spaced relatively to the underface of the middle flange 21 that the web or membrane or connecting portion 26 between the flanges must be stretched somewhat to enable them to **engage respectively with the portions** 16 and 14 of the rim.” (**emphasis added**)); *see also* McMann at Figures 2-4.

Based on the above arguments, Applicant respectfully submits that the claims of the present invention are not anticipated by the disclosure of McMann. Therefore, Applicant respectfully requests reconsideration and removal of this ground of rejection.

Based on the above, Applicant respectfully submits that the claims of the present invention are in proper form for allowance. Favorable consideration and early allowance are therefore respectfully requested and earnestly solicited.

Respectfully submitted,

/matthew j. solow/

Matthew J. Solow
Reg. No. 56,878

MAILING ADDRESS

Florek & Endres
1156 Avenue of the Americas
Suite 600
New York, NY 10036
(212) 997-1000